

Clean Water Act Section 401

Mike Porter

Environmental Scientist

San Diego Regional Water
Quality Control Board

Introduction

- What is 401?
- Application process
- SWANCC
- Waste Discharge Requirements

401 Water Quality Certification

- Federal Clean Water Act
- Certifying over the life of your project, that you will not adversely impact water quality standards



Water Quality Standards

- Numeric and narrative criteria
- Beneficial Uses
- Antidegradation Policy

Who Needs 401 Certification?

- Any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the U.S.
 - ◆ 404 permits issued by the Corps
 - ◆ Section 9 and 10 of the Rivers and Harbors Act
 - ◆ FERC licenses









401 Application Process

- Process officially starts with the submittal of a complete application
- Contents of a complete application are defined in 23 CCR §3856
- <http://www.swrcb.ca.gov/rwqcb9>

401 Application Process

- Notice of Complete/Incomplete
- Request for supplemental information
- Negotiations

401 Application Process

- Timelines
 - ◆ 30 days
 - ◆ 60 days
 - ◆ 365 days

What Do We Look For?

- What is the entire project?
- What are the expected pollutants?
- What are the long-term impacts of the project?
- What is being done to lessen/avoid long-term water quality impacts?
- What are the impacts to the duration, volume, and intensity of flow?

What Do We Look For?

- Resources onsite and surrounding the site
- Beneficial uses
- Pre-and post-construction drainage patterns
- Best Management Practices
- Mitigation

401 Actions

- Denial without prejudice
- Standard certification
- Technically-conditioned certification
- Denial of certification

Solid Waste Agencies of Northern Cook County

- January 2001 Supreme Court decision
- Impacts only portion of waters of the United States
- Does **not** affect waters of the State

Solid Waste Agencies of Northern Cook County

- Regulate discharges of fill through State regulations
- Porter-Cologne Water Quality Control Act
- Waste Discharge Requirements

Waste Discharge Requirements

- Applied to “isolated” waters or complex 401 applications
- Allows for:
 - ◆ Closer tracking of project implementation and conditions
 - ◆ Tracking of mitigation success and failures
 - ◆ Greater enforcement authority

401/WDR Differences

- One-time vs. annual fee
- Public hearing
- Board approval
- Federal vs. State authority

Hints and Tips

- Pre-application meetings
- CEQA
- Mitigation
- Call! Call! Call!

401 Contacts

- Jeremy Haas 858-467-2735 Orange County, Camp Pendleton, & San Luis Rey Watersheds
- Meagan Fisher 858-268-5363 Santa Margarita Watershed (except Camp Pendleton)
- Dave Gibson 858-467-2967 Carlsbad Watershed
- Mo Lahsai 858-637-5587 San Dieguito, Los Penasquitos, & Tijuana Watersheds
- Mike Porter 858-467-2726 San Diego River, Sweetwater & Otay Watersheds
- Phil Hammer 858-627-3988 Pueblo San Diego Watershed

Useful References

- *Water Quality Control Plan for the San Diego Basin (Region 9)*
- Porter Cologne Water Quality Control Act
- 401 Regulations:
Title 23. Waters
Chapter 28. Certifications

Web Resources

- State Board
 - ◆ www.swrcb.ca.gov
- Regional Board
 - ◆ www.swrcb.ca.gov/rwqcb9

A large, curved, multi-colored shape on the left side of the slide, transitioning from light blue at the top to light green in the middle, and then to light yellow at the bottom.

Questions ?